Confirmation No.: 1701

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: Patricia Morris In re Application of: Hermkens et al.

Patent For:

INDOLES USEFUL IN THE TREATMENT OF ANDROGEN-

RECEPTOR RELATED DISEASES Group Art Unit: 1625

Serial No. 10/534.945

Filed: May 7, 2005

Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450

Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705(d)

Sir:

In response to the ISSUE NOTIFICATION, mailed on August 26, 2010, Applicants respectfully request reconsideration of the Patent Term Adjustment of 956 days noted on the Notice, and request that it be corrected to 953 days. This request is filed within two months of the issue date of the patent, September 14, 2010, and is therefore timely.

Applicants hereby authorize the payment of any fees associated with this Request (e.g., the fee set forth in 37 C.F.R. §1.18(e)) to be drawn from Applicants' deposit account No. No. 50-4205.

Applicants respectfully submit that a Patent Term Adjustment of 953 days should be accorded to this application. In support thereof, Applicants have attached a copy of the "patentterm® AIPA Term Calculation Report" which summarizes the prosecution history of the present application, the grounds for adjustment under 37 C.F.R. § 1.702

Request for Reconsideration of Patent Term Adjustment USSN 10/911,030 Filed: August 4, 2004

applied to the prosecution history, and corresponding period of adjustment due under 37 C.F.R. \$1.703.

It can be seen that Applicants' calculation of the Patent Term Adjustment (PTA) is different from the PTA calculated by the PTO. The priority date of the present application is May 7, 2005. As the expiration of the 30-month period pursuant to 35 U.S.C. §371(b) fell on Saturday, the 30-month period expired on the subsequent business day. (See PCT Rule 80.5). Accordingly, the commencement date is Monday, May 9, 2008. In view of the 30 month date beginning on May 9, 2008 it is submitted that under the 3-Year Rule the number of credit days is 562 days and under the 14-Month PTO First Action Rule the number of credit days is 572 days.

In view of the AIPA Term Calculation Report, it is believed that the PTA should be 953 days. Review of the calculation and grant of 953 days PTA is respectfully requested.

Respectfully submitted,

Súsan L. Hess Reg. No. 37, 350

Merck & Co., Inc. Patent Department Mail Stop K-6-1, 1990 2000 Galloping Hill Road Kenilworth, NJ 07033-0530

Phone: (908) 298-2161 Fax: (908) 298-5388

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AIPA Term Calculation Report

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Docket Number: 0-2002.723 US User Name:	Hess, Susan
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Application Number: 10/534,945 Firm/Company Name:	Organon, a part of Schering-Plough
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User Comments:	
Title/Inventor(s) AUDOLES USEFUL IN THE TREATMENT OF AUDOCOEN-RECEPTOR RELATED DISASES, Calculation Generated: Pedro Hurold Han Hernstans, Oss, (NL)	11/10/2010 01:59:34 PM ET

AIPAT	AIPA TERM CALCULATION SUMMARY
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06 / 13 / 2026 (1) 953 Days 181 Days

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		02/01/2008 Restriction / Election-of-Species		05/09/2005 Application Fulfilled Requirements of 35 Regurers of 35			05/09/2005 National Stage Commenced under 35 USC 371(b) or (f)		Event	
0	Where applicant shows, in spite of all due care, applicant was unable to respond writin the 3-month period, all or part of adjustment may be reinstanced for up to 3 additional months. 35 USC 134(b/3)C/5, 37 C/R 1, 705(c). You have indicated that no 1.705(c) Blownin of Duc Care was made.	Perricul of suljustment (credits) shall be reduced for the period in excess of a months taken to reply to any PTO notice or extent making any spectrum, objection, and argument, or other request, segmining not he day after the dame that is 3 months after the dame of maining are transmission of the Office or numinisation and rending on the date of the militage of the date of the office of the date of the office of the office of the date of the office of the date of the office of the date of the office of the office of the date of the office of the office of the office of the date of the office of th	3-Month Applicant Response to Notice or Action	"PTO must mail a notification under 35 USC 132 or a notice of allowance under 35 USC 151 of little than in distinction was filled used in 150 USC 151 of little than 150 USC 150 USC 151 of little than 150 USC 150	14-Month PTO First Action	You have elected to analyze this rule in accordance with Wyeth v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).	PTO must issue a patent within 3 years (not including exclusions) after the date on which the application was filed under 35 USC 111(a) or the national stage commenced under 33 USC 211(a) or (f) in an international application. Period of adjustment (credits) begins not on the day after the date that is 3 years after the date on which the applications was fined under 33 USC 11(a) or the national stage commenced under 35 USC 21(b) or (f) in an international application and creding on the date a patent was issued, but not including the sum of the listed exclusionary periods. 35 USC 154(b)(1)(B); 37 CFR 1.702(b), 1.703(b).	3-Year PTO Issue of Patent	Rale invoked	RULE CALCULATION SUMMARY (3)
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	02/27/2009 Final Rejection		12/02/2008 Reply after Non-final Action under 37 CFR 1.111				06/03/2008 Non-final Action		02/28/2008 Response to Election-of-Species / Restriction Filed
Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstanted for up to 3 additional months 35 USCI 34(96)(5)(2) 57 CR 7.176(c). You have indicated that no 1.705(c) Showing of Due Care was made.	Percicl of adjustment (crotifies) shall be relabored for the period in excess of 3 anoths taken to reply to any PTO poster or action making any reperion objection, against not other request, beginning on the day after the date that is 3 months after the date of the first per the single of the Office communication and cording that the date the reply was filled. The period, or shortened stantory period, for reply as in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ti); 37 CFR 1.304(b).	3-Month Applicant Response to Notice or Action	TO must respond to a reply under 35 USC 132 not lear than 4 months after the date on which the reply was filled. The period of signatured (replicable begins on the case of the control of the period of signatured (replicable begins on the case of the control of	4-Month PTO Response to Applicant Reply	You have indicated that no 1.705(c) Showing of Due Care was made.	Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 134(b)(3)(C), 37 CFR 1.705(c).	Period of edijustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any TDO printer or action making any specifion, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of finality or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened stantory period, for reply set in the action or motice has no effect on this deadline. 35 USC 134 (b)(2)(C)(i); 37 CFR 1.704(b).	3-Month Applicant Response to Notice or Action	4.Mouth PTO Response to Applicant Reply PTO must respond to areply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first, 35 USC 154(b)(J)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2),(5)
Interferences	Appeal and Appeal and Appeal and Appeal and Appeal and		FIO Response 02/27/2009 Final Rejection				Applicant Responses 12/02/2008 Reply after Non-final Action under 37 CFR		PTO Responsi 06/03/2008 Non-final Action
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02/19/2010 Notice of Allowance under 35 USC 151	12/07/2009 Request for Continued Examination under 35 U.S.C. 132(b)	09/08/2009 Notice of Allowance under 35 USC 151	08/26/2009 Notice of Appeal to Board of Patent Appeal and Interferences
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. Synfram Response: 04/09/2010 Request for Continued Examination under 35 U.S.C. 13(b)	Issue Date 09/14/2010 Issue Date	ligills and Responses 12/07/2009 Request for Continued Examination under 35 U.S.C. 132(b)	Resymblic Event 09/08/2009 Notice of Allowance under 35 USC 151
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	•		dpp.Scart Response. 08/04/2010 Issue Fee Psyment under 35 USC 151	2-Month Applicant Response to Notice or Action Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to crayly to any PTO notice or exton making any rejection, objection, argument, or other request, beginning on the day affer the date that is 3 months after the date or making of remainission of the Olfrec communication and credits after the date in the party was filled. The period, or shortened stantous period, for crayly set in the action or notice has no effect on this deadline. 35 USC [34 (b)(2)/C/(fi); set in the action or notice has no effect on this deadline. 35 USC [34 (b)(2)/C/(fi); set in the action or notice has no effect on this deadline. 35 USC [34 (b)(2)/C/(fi); set in the action of the period, all or pair of adjustment may be remsulted for up to 3 additional months. 35 USC [34 (b)(5)/C/(fi); 37 (FI, 1705(c)) Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or pair of adjustment may be remsulted for up to 3 additional months. 35 USC [34 (b)(5)/C/(fi); 37 (FI, 1705(c))	05/04/2010 M Notice of Allowance under 35 USC 151
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